WESTLAW

Limitation of Holding Recognized by In re Michael H., | Wis., | December 16, 2014

Original Image of 413 F.Supp. 1318 (PDF)

Lessard v. Schmidt
United States District Court, E.D. Wisconsin. | May 28, 1976 | 413 F.Supp. 1318 *(Approx. 5 pages)*

E.D. Wisconsin.

Alberta LESSARD et al., Plaintiffs,
v.
Wilbur SCHMIDT et al., Defendants.

Civ. A. No. 71—C—602.
May 28, 1976.

Synopsis

A class action was brought to contest validity of Wisconsin civil commitment procedures. A three-judge District Court for the Eastern District of Wisconsin, 349 F.Supp. 1078, entered judgment for plaintiffs, and defendants appealed. The Supreme Court remanded, 414 U.S. 473, 94 S.Ct. 713, 38 L.Ed.2d 661. The three-judge District Court, 379 F.Supp. 1376, then held that the state civil commitment statutes denied due process in certain respects. The United States Supreme Court, 421 U.S. 957, 95 S.Ct. 1943, 44 L.Ed.2d 445, again remanded. The three-judge District Court, Sprecher, Circuit Judge, held that civil commitment proceedings were not in aid of nor closely related to any state interests underlying its criminal justice system, so as to be within the doctrine of federal nonintervention in pending state proceedings. In view of circumstances of the case, grant of federal relief to the person who was the subject of the civil commitment proceedings was proper despite the doctrine of federal nonintervention in pending state proceedings.

Prior judgment of the three-judge District Court reinstated.

Myron L. Gordon, J., filed a concurring opinion.

West Headnotes (2)

Change View

1 **Courts** Restraining Particular Proceedings
Civil commitment proceedings in Wisconsin were not in aid of nor closely related to any state interests underlying its criminal justice system, so as to be within the doctrine of federal nonintervention in pending state proceedings. W.S.A. 51.001(1), 51.005(1), 975.01, 975.02.

8 Cases that cite this headnote

SELECTED TOPICS

Courts

Concurrent and Conflicting Jurisdiction
Aid of Jurisdiction Exception of the Federal Anti Injunction Act

Secondary Sources

Pendency of action in Federal Court as ground of injunction against action

122 A.L.R. 1425 (Originally published in 1939)

...The reported case for this annotation is Toucey v. New York Life Ins. Co., 102 F.2d 16, 122 A.L.R. 1415 (C.C.A. 8th Cir. 1939).

§ 4222. Application of Anti-Injunction Act

17A Fed. Prac. & Proc. Juris. § 4222 (3d ed.)

...After some uncertainty, it is now settled that 28 U.S.C.A. § 2283 is "an absolute prohibition against enjoining state court proceedings, unless the injunction falls within one of three specifically def...

§ 4226. Exceptions to Act—In General—Protect or Effectuate Its Judgments

17A Fed. Prac. & Proc. Juris. § 4226 (3d ed.)

...The specific holding of the well-known 1941 decision in Toucey v. New York Life Insurance Co. was that the Anti-Injunction Act barred federal courts from enjoining state court proceedings in which a pa...

See More Secondary Sources

Briefs

Brief of the Product Liability Advisory Council, Inc., as Amicus Curiae in Support of Respondent

2010 WL 5275247
Keith SMITH and Shirley SPERLAZZA, Petitioners, v. BAYER CORPORATION, Respondent.
Supreme Court of the United States
Dec. 20, 2010

...The Product Liability Advisory Council, Inc. (PLAC) is a non-profit association with 99 corporate members representing a broad cross-section of American and international product manufacturers. These c...

Brief for Appellant

1986 WL 727511
PENNZOIL COMPANY, Appellant, v. TEXACO, INC., Appellee.
Supreme Court of the United States
Sep. 05, 1986

...The opinion of the United States Court of Appeals for the Second Circuit, dated February 20, 1986, is reported at 784 F.2d 1133, and is reprinted as Appendix A. The opinion of the United States Distric...

Brief for Petitioners

2010 WL 4688115
Keith SMITH and Shirley SPERLAZZA, Petitioners, v. BAYER CORPORATION, Respondent.
Supreme Court of the United States
Nov. 12, 2010

2 **Courts** Restraining Particular Proceedings

In view of questionable right of appeal and high presumption of constitutionality, making it practically impossible to have constitutional challenges decided in Wisconsin civil commitment proceeding, and where there was no interference with state proceedings inasmuch as preliminary injunction had been denied at inception of federal suit and when federal decision finally came down the state proceedings had terminated and time for appeal, if there could be one, had passed, grant of federal relief to person who was subject of civil commitment proceedings in Wisconsin was proper despite such doctrine of federal nonintervention. W.S.A. 51.001(1), 51.005(1), 975.01, 975.02.

35 Cases that cite this headnote

Attorneys and Law Firms

*1318 Robert H. Blondis and Thomas E. Dixon, Jr., Milwaukee Legal Services, Milwaukee, Wis., for plaintiffs.

Ward L. Johnson, Asst. Atty. Gen., Madison, Wis., for defendants Wilbur Schmidt and Leonard Ganser.

George E. Rice, Deputy Corp. Counsel, Milwaukee, Wis., for defendants Dr. George Currier, Bert W. Pyle, Jr., Dr. Kevin Kennedy, and Judge Christ T. Seraphim.

*1319 MEMORANDUM OPINION AND JUDGMENT

Before SPRECHER, Circuit Judge, REYNOLDS, Chief District Judge and GORDON, District Judge.

Opinion

SPRECHER, Circuit Judge.

In Lessard v. Schmidt, 349 F.Supp. 1078 (E.D.Wisc.1972), the first consideration of this case, this court held that the Wisconsin civil commitment procedures did not provide adequate due process rights to those who were committed and ordered numerous safeguards be instituted, including adequate notice, the right to counsel, availability of the privilege against self-incrimination, and a speedy hearing. The Supreme Court vacated and remanded the case because the judgment entered did not meet the specificity requirements for injunctive orders of Fed.R.Civ.P. 65(d). Schmidt v. Lessard, 414 U.S. 473, 94 S.Ct. 713, 38 L.Ed.2d 661 (1974). In Lessard v. Schmidt, 379 F.Supp. 1376 (E.D.Wisc.1974), this court entered a specific judgment in accordance with the prior opinion. The Supreme Court again vacated and remanded, this time 'for further consideration in light of Huffman v. Pursue, Ltd., 420 U.S. 592, 95 S.Ct. 1200, 43 L.Ed.2d 482 (1975).' In accordance with this direction, then, this court considers the effect that the Huffman case has on the validity of the prior judgment in Lessard.

I

The Huffman case extends the doctrine established in Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971), of federal non-intervention in pending state criminal proceedings to pending state civil proceedings. The Supreme Court, however, limited the applicability of the doctrine only to those civil cases in which '(t)he State is a party to the . . . proceeding, and the proceeding is both in aid of and closely related to criminal statutes . . ..' 420 U.S. at 604, 95 S.Ct. at 1208, 43 L.Ed.2d at 492. The Court elaborated on this by noting that federal intervention in such a proceeding would disrupt the 'State's efforts to protect the very interests which underlie its criminal laws and to obtain compliance with precisely the standards which are embodied in its criminal laws.' 420 U.S. at 605, 95 S.Ct. at 1208, 43 L.Ed.2d at 492. Thus, the question this court must decide is whether the civil commitment proceedings in Lessard fall into this category of civil proceedings.

1 While it is clear that the state is a party to civil commitment proceedings in Wisconsin, it is not so clear that these proceedings are 'both in aid of and closely related to criminal statutes.' We note at the outset that both the Wisconsin Supreme Court and the United States Supreme Court have recognized a close connection between the Wisconsin civil commitment statute and the state's sex crimes law. State ex rel. Farrell v. Stovall, 59

...The decision of the United States Court of Appeals for the Eighth Circuit affirming the issuance of a permanent injunction against petitioners is reported at 593 F.3d 716 and is reproduced in the appen...

See More Briefs

Trial Court Documents

Dairyland Greyhound Park, Inc. v. Doyle

2003 WL 25705321
DAIRYLAND GREYHOUND PARK, INC., Plaintiff, v. James E. DOYLE, in his official capacity as Governor of the State of Wisconsin, and Marc J. Marotta, in his official capacity as Secretary of the Wisconsin Department of Administration, Defendants.
Circuit Court of Wisconsin.
Feb. 11, 2003

...Plaintiff Dairyland Greyhound Park, Inc. ("Dairyland") seeks to enjoin Governor James E. Doyle ("Governor") from extending or renewing the gaming compacts previously entered into between the state and ...

Evelyn HOMMRICH, Plaintiff, v. BROWN COUNTY MENTAL HEALTH CENTER, Mark Quam, Joseph Van Beek and Brown County, Defendants.

1998 WL 35163790
Evelyn HOMMRICH, Plaintiff, v. BROWN COUNTY MENTAL HEALTH CENTER, Mark Quam, Joseph Van Beek and Brown County, Defendants.
Circuit Court of Wisconsin.
Mar. 03, 1998

...Evelyn Hommrich (plaintiff) filed this action against Brown County Mental Health Center, Mark Quam, Joseph Van Beek and Brown County (defendants) seeking compensatory and punitive damages under 42 U.S....

Disability Rights Wisconsin v. University of Wisconsin Hosp. and Clinics

2010 WL 11475134
DISABILITY RIGHTS WISCONSIN, Plaintiff, v. UNIVERSITY OF WISCONSIN HOSPITAL AND CLINICS, et al., Defendants.
Circuit Court of Wisconsin.
July 06, 2010

...This case concerns developmentally disabled individuals' rights, and University of Wisconsin System ("UW System") doctors' treatment at University of Wisconsin Hospital and Clinics (UWHC) facilities. T...

See More Trial Court Documents

Wisc.2d 148, 207 N.W.2d 809, 815 (1973); Humphrey v. Cady, 405 U.S. 504, 509—13, 92 S.Ct. 1048, 1052, 31 L.Ed.2d 394, 402 (1972). However, this noted similarity between commitment procedures under the sex crimes laws and the civil commitment procedures is not persuasive on the issue of whether civil commitment is 'both in aid of and closely related to criminal statutes.' The differences between the two statutes, indeed, point up the fact that civil commitment has little relation to the state's interest in its criminal law. While the main purpose of the Wisconsin Sex Crimes Law is to protect society from commission of further sex crimes, Hill v. Burke, 422 F.2d 1195 (7th Cir. 1970), and commitment under it requires proof of commission of a sex crime, Wisc.Stat.Ann. ss 975.01, 975.02 (1972 Supp.), the purpose of the State Mental Health Act is clearly different.

> It is . . . to provide for care and treatment in state and county hospitals for persons who by reason of mental illness, infirmity or deficiency are in need of care and treatment not feasible in their homes or in private facilities. Wisc.Stat.Ann. s 51.005(1) (1957).

The standards applied under the act have no connection with the State's interest in furthering the goals of its criminal justice system. The statute defines 'mental illness ***1320** (as) synonymous with insanity; mental infirmity with senility; and mental deficiency with feeble-mindedness.' Wisc.Stat.Ann. s 51.001(1) (1957). No crime must be committed for commitment, nor does the statute require a showing that the patient is a danger to society. Indeed, Ms. Lessard is a perfect example. Possibly she was a danger to herself, but in no way could it be said that she was a danger to society nor that the State's interests which underlie its criminal laws were furthered in any way by her commitment. Therefore, although the State is a party to civil commitment proceedings, these proceedings are neither in aid of nor closely related to any state interests underlying its criminal justice system.

II

2 Moreover, the underlying rationale of Huffman does not apply to this case. First, as noted in Gibson v. Berryhill, 411 U.S. 564, 577, 93 S.Ct. 1689, 1697, 36 L.Ed.2d 488, 499 (1973):

> Younger v. Harris contemplates the outright dismissal of the federal suit, and the presentation of all claims, both state and federal, to the state courts. Such a course naturally presupposes the opportunity to raise and have timely decided by a competent state tribunal the federal issues involved. (Emphasis added.)

Here, the tribunal which Ms. Lessard faced may not have been competent to decide the questions raised in the federal suit. In In Re Brand, 251 Wis. 531, 30 N.W.2d 238 (1947), appeal dismissed, cert. denied, 335 U.S. 802, 69 S.Ct. 34, 93 L.Ed. 359 (1948), the Wisconsin Supreme Court held that appeal was not available from a determination of insanity. The defendants have suggested that the statute upon which this holding was based has been amended to allow appeal. However, the effect of this amendment is not clear.[1] The amendment did not create an explicit right of appeal in distinct contrast to the provisions for appeal from other statutes. In addition, at the time when the first Lessard decision appeared, the Wisconsin Supreme Court had instructed its trial courts to avoid declaring statutes unconstitutional unless the trial court was convinced of such clearly beyond a reasonable doubt. State v. Stehlek, 262 Wis. 642, 56 N.W.2d 514 (1953). The Stehlek case was overruled shortly after the first Lessard decision in Just v. Marinette County, 56 Wisc.2d 7, 201 N.W.2d 767, 772 (1972). However, the Just decision continued to hold that statutes were presumed constitutional unless proved otherwise beyond a reasonable doubt. Id. These two factors—the questionable right of appeal and the high presumption of constitutionality—make it practically impossible to raise constitutional challenges and have them decided in a civil commitment proceeding. Thus, it is doubtful that such a proceeding can be considered a 'competent state tribunal' to decide federal questions within the meaning of Gibson v. Berryhill.

Second, the Huffman case points out that one of the major considerations underlying the Younger doctrine is the avoidance of interference with state judicial proceedings. As the Court wrote:

***1321** (I)nterference with a state judicial proceeding prevents the state not only from effectuating its substantive policies, but also from continuing to perform the separate function of providing a forum competent to vindicate any constitutional objections interposed . . .. Such interference also results in duplicative legal proceedings, and can readily be interpreted 'as reflecting negatively upon the state courts' ability to enforce constitutional principles.' 420 U.S. at 604, 95 S.Ct. at 1208, 43 L.Ed.2d at 492.

In Lessard, however, there was no interference with the state proceedings. A preliminary injunction was denied at the inception of the federal suit and when the federal decision finally came down the state proceedings had terminated and time for appeal (if the possibility of such existed) had passed. 349 F.Supp. at 1082—84. In Kidd v. Schmidt, 399 F.Supp. 301 (E.D.Wisc.1975), a three-judge district court of this district held that the Huffman doctrine was inapposite to a situation in which a juvenile had been committed without a hearing. The court found that even though the children's court had continuing jurisdiction over the plaintiff in Kidd, there was no pending proceeding for purposes of Huffman. We find this reasoning persuasive.

III

It seems clear, then, that not only does the present case fall outside the category of civil suits which Huffman encompassed, but also it exhibits none of the policy concerns underlying the Younger-Huffman doctrine. As this court noted in its first opinion in Lessard, 349 F.Supp. at 1084:

> In these circumstances it would be unjust to require the plaintiff to forego this suit. Principles of federalism and comity do not require this court to refuse to act when to do so would only discourage the assertion of federal constitutional rights and perhaps cause irreparable injury to persons subject t involuntary loss of freedom as the result of the challenged commitment procedure.

Therefore, the grant of federal relief to Ms. Lessard was proper.

The prior judgment of this court is reinstated.

MYRON L. GORDON, District Judge (concurring).
I concur in the result reached by the panel today for the reasons stated in part II of the opinion. I do not subscribe to the reading the panel gives to Huffman v. Pursue, Ltd., 420 U.S. 592, 95 S.Ct. 1200, 43 L.Ed.2d 482 (1975), in part I of the decision. See Burdick v. Miech, 409 F.Supp. 982 (E.D.Wisc., decided December 3, 1975) (3-judge panel).

All Citations

413 F.Supp. 1318

Footnotes

1 This court has previously considered this issue and in Lessard v. Schmidt, 349 F.Supp. 1078, 1083—84 (1972), we noted the following:
The lack of . . . a provision (for appeal) in the general civil commitment statute is in sharp contrast to the explicit appeal right provided under the Wisconsin Sex Crimes Act. Wisc.Stat.Ann. s 975.16. If any right of appeal does exist, it arises under Wisc.Stat.Ann. s 274.01(1) (1972 Supp.), which provides: 'Except as otherwise provided the time within which a writ of error may be issued or an appeal taken to obtain a review by the supreme court of any judgment or order in any civil action or special proceeding in a court of record is limited to 3 months from service of notice of entry of such judgment or order or, if no notice is served, to 6 months from date of entry.' An additional provision states that the above time limitations do not apply in cases in which a judgment is rendered against an insane person. However, since the very purpose for an appeal of a judgment of insanity is to challenge that

determination, a reversal of the judgment would presumably bring the time limitations into operation and the three or six month limitation would therefore be applicable. The order challenged here was entered on November 24, 1971; the time for appeal, if it ever existed, has therefore run.

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

Westlaw. © 2024 Thomson Reuters | Privacy Statement | Accessibility | Supplier Terms | Contact Us | 1-800-REF-ATTY (1-800-733-2889) | Improve Westlaw/Report an error

THOMSON REUTERS